

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 11492 OF 2015

Shri Prashant Pandurang Satav ..Petitioner.

Vs

Indian Oil Corporation Ltd and .. Respondents
Ors

Mr.Sandeep M. Phatak , Advocate for Petitioner.
Mr. Sunil Gangan a/w Jayesh Mistry i/b RMG Law Associates,
Advocates for Respondents no. 1 to 3.

CORAM : R.G.KETKAR,J.
DATE : 08/02/2017

PC:

1. Heard Mr.Sandeep Phatak, learned counsel for the petitioner and Mr.Sunil Gangan, learned counsel for respondents no. 1 to 3.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the Judgment and order dated 21.9.2015 passed by the learned trial Judge below Exhibit-20 in Spl. Civil Suit No. 78 of 2013. By that order, the learned trial Judge directed the plaintiff to take steps for calling for original document dated 2.12.1999 by following proper procedure for placing it on record of the present suit.

3. Mr.Phatak submitted that Spl. Civil Suit No. 74 of 2009 was filed. At the behest of the petitioner, Mr. M.M.Dalvi, Clerk attached to office of Sub Registrar, produced original document

dated 2.12.1999 along with list at Exhibit 47. The petitioner, thereafter filed application-Exhibit-27 for return of the document after disposal of Spl. Civil Suit No. 74 of 2009. In the impugned order, the learned trial Judge observed that as per the order below Exhibit 27, the document was given to the plaintiff and the said document should have been returned to person who had produced it. The learned trial Judge, therefore, ordered return of the document in Spl. Civil Suit No 74 of 2009 with liberty to the plaintiff to apply for issuing summons. The learned trial Judge further directed return of original document in the record of Spl. Civil Suit No 74 of 2009 with liberty to the plaintiff to take further steps for calling that document in the present suit by following proper procedure.

4. This petition was heard at length on 15.11.2016 and parties were directed to verify whether in pursuance of the impugned order, original document is transmitted in the record of Spl. Civil Suit no. 74 of 2009.

5. Mr. Pathak submitted that the petitioner has filed affidavit dated 21.1.2017. In paragraph 11 of that affidavit, it is stated that original lease agreement dated 2.12.1999 is on the record of Spl. Civil Suit No. 78 of 2013. Mr. Gangan does not dispute this fact.

6. In view thereof, this petition can be disposed of by directing the learned trial Judge, seized of Spl. Civil Suit No 78 of 2013, to

pass appropriate orders, after hearing both sides about return of document dated 2.12.1999 after completion of trial. Petition is disposed of. Order accordingly.

(R.G.KETKAR, J.)